

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 28786 Permit 20114 License

**ORDER TO MODIFY DESCRIPTION OF PERMIT CONDITION
AND APPROVE A NEW DEVELOPMENT SCHEDULE**

WHEREAS:

1. Permit 20114 was issued to Mendocino Uplands Corporation on July 22, 1987 pursuant to Application 28786.
2. A field inspection of the project area was conducted by the State Water Resources control Board (SWRCB) staff on August 25, 1993. Staff recommended the permittee maintain monthly diversion records to be submitted annually with the annual Progress Report by Permittee.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the SWRCB.
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 9 of the permit be amended to include the following:

Permittee shall maintain a monthly record of water diversions under this permit. A copy of these records shall be submitted with the annual Progress Report by Permittee.

(0000010)

2. Condition 7 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 1998

(0000008)


3. Condition 8 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 2000

(0000009)

Dated: SEPTEMBER 8 1994

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Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20114Application 28786 of Mendocino Uplands CorporationP.O. Box 153, Ukiah, California 95482filed on January 28, 1986, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Eldridge CreekSeward Creek thenceForsythe Creek thenceWest Fork Russian River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
North 3,800 feet and West 1,400 feet from SE corner of Section 16	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	16	16N	13W	MD

County of Mendocino

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Wildlife Enhancement						
Recreational	Unnamed Reservoir within W $\frac{1}{2}$ of NE $\frac{1}{4}$	16	16N	13W	MD	
Domestic	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	16	16N	13W	MD	
	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	16	16N	13W	MD	
	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	16	16N	13W	MD	
	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	16	16N	13W	MD	

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 4,100 gallons per day by direct diversion to be diverted from January 1 to December 31 of each year and 20 acre-feet per annum by storage to be collected from April 1 to November 14 of each year. The total amount of water to be taken from the source shall not exceed 24.6 acre-feet per year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be completed by December 31, 1990. (0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 1991. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. During the season specified in this permit, the total quantity and rate of water directly diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of direct diversion and use, respectively, specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of direct diversion and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law.

(0000021)

14. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit for wildlife enhancement and recreational purposes upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing.

(0000042)

15. For the protection of fish and wildlife, permittee shall operate the reservoir in the following manner:

a. From November 15 through March 31, the square sluice gate at the bottom of the dam shall be maintained in the fully open position and free of debris.

b. From April 1 through November 14, a minimum of 150 gallons per minute or the natural streamflow entering the reservoir, whichever is less, shall be bypassed.

(0140400)

16. A structure, approved by the California Department of Fish and Game, shall be installed at the dam to safely bypass downstream migrating juvenile steelhead once the sluice gate is closed. Said structure shall be operated and maintained in good condition by the permittee.

(0140400)

17. Permittee shall maintain the existing outlet facilities at the dam in good operating condition.

(0360400)

18. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this permit. Said measuring device shall be properly maintained.

(0060062)

19. During the period between July 1 and October 31 if, in the absence of permittee's diversion, hydraulic continuity would exist between permittee's diversion point and the Russian River at the confluence with East Fork Russian River, permittee shall not divert water under this permit.

(0000110)

20. The total quantity of water diverted under this permit, together with that diverted under the permit issued pursuant to Application 28787, shall not exceed 24.6 acre-feet per annum.

(0000114)

21. This permit is specifically subject to the prior right of John E. Fetzer et. al. under appropriation issued pursuant to Application 16347.

(000T001)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: JULY 22 1987

STATE WATER RESOURCES CONTROL BOARD

Raymond J. Walsh

Chief, Division of Water Rights